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**The Honorable Benjamin H. Settle**

*Attorneys for Defendants Bank of America,  
N.A.; Mortgage Electronic Registration  
Systems, Inc.; and Merscorp Holdings, Inc.*

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT TACOMA

JEREMY WOLFSON,

Plaintiff,

vs.

BANK OF AMERICA, NATIONAL  
ASSOCIATION, its successors in interest  
and/or Assigns; MTC FINANCIAL INC. d/b/a  
TRUSTEE CORPS; MORTGAGE  
ELECTRONIC REGISTRATION SYSTEMS  
INC; MERSCORP HOLDINGS, INC.;  
MAROON HOLDING, LLC;  
INTERCONTINENTAL EXCHANGE, INC.;  
FIRST MAGNUS FINANCIAL  
CORPORATION, AN ARIZONA  
CORPORATION  
Does # 1-10, inclusive,

Defendants

Case No. 3:17-cv-06064-BHS

**DEFENDANTS BANK OF AMERICA,  
N.A. AND MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.'S  
ANSWER TO PLAINTIFF'S FIRST  
AMENDED COMPLAINT**

Defendants BANK OF AMERICA, N.A. ("BANA") and MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC. ("MERS") (collectively, "Defendants"), by and through

DEFENDANTS' ANSWER TO PLAINTIFF'S  
FIRST AMENDED COMPLAINT - 1

Case No.: 3:17-cv-06064-BHS  
{S1809870; 1 }



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1 their attorney of record, Daniel J. Gibbons of Witherspoon Kelley, hereby submit their Answer  
 2 and affirmative defenses to Plaintiff's First Amended Complaint ("FAC"). Unless expressly  
 3 admitted herein, Defendants lack sufficient information or knowledge to admit or deny the  
 4 allegations of the FAC and, on that basis, deny the allegations.

#### 5 **PRELIMINARY NOTES**

6  
 7 1. Answering Paragraph 1 of the FAC, Defendants respond that it contains no  
 8 allegations and therefore no response is required.

9 2. Answering Paragraph 2 of the FAC, Defendants respond that this paragraph  
 10 contains a legal conclusion that does not require a response. To the extent this paragraph requires  
 11 a response Defendants are without sufficient knowledge or information to admit or deny the  
 12 allegations and on that basis deny each and every allegation of this paragraph.

13  
 14 3. Answering Paragraph 3 of the FAC, Defendants admit that an Assistant Secretary  
 15 for MERS executed an Assignment of Deed of Trust relating to the subject Deed of Trust at issue  
 16 in this lawsuit. Except as expressly admitted, Defendants deny each and every remaining  
 17 allegation of this paragraph.

18  
 19 4. Answering Paragraph 4 of the FAC, Defendants respond that it contains no  
 20 allegations and therefore no response is required. Plaintiff's purported definition of "the Note" is  
 21 vague and unidentifiable because Defendants have not made any such allegation. To the extent a  
 22 response is required, Defendants lack sufficient information or knowledge to admit or deny the  
 23 allegations contained therein, and on that basis, deny them.

24  
 25 5. Answering Paragraph 5 of the FAC, Defendants admit that BANA is not a person.  
 26 Plaintiff's purported definition of "the Note" is vague and unidentifiable and thus Defendants are  
 27 without sufficient information or knowledge to admit or deny the allegations contained in this  
 28



1 paragraph. Except as expressly admitted, Defendants deny each and every remaining allegation  
2 of this paragraph.

3 6. Answering Paragraph 6 of the FAC, Plaintiff's purported definition of "the Note"  
4 is vague and unidentifiable and thus Defendants are without sufficient information or knowledge  
5 to admit or deny the allegations contained in this paragraph, and on that basis, deny them.  
6

7 7. Answering Paragraph 7 of the FAC, Plaintiff's purported definition of "the Note"  
8 is vague and unidentifiable and thus Defendants are without sufficient information or knowledge  
9 to admit or deny the allegations contained in this paragraph, and on that basis, deny them.  
10

11 8. Answering Paragraph 8 of the FAC, Plaintiff's allegations are vague and overly  
12 broad and thus Defendants are without sufficient information or knowledge to admit or deny the  
13 allegations contained in this paragraph, and on that basis, deny them.

14 9. FAC Paragraph 9, is a legal conclusion to which no response is required. To the  
15 extent a response required, Plaintiff's purported definition of "the Note" is vague and  
16 unidentifiable and thus Defendants are without sufficient information or knowledge to admit or  
17 deny the allegations contained in this paragraph, and on that basis, deny them.  
18

19 10. Defendants deny the allegations alleged in FAC Paragraph 10.

20 11. Answering Paragraph 11 of the FAC, Defendants specifically deny that MERS  
21 has ever been involved in "robo-signing mortgage documents." Defendants also deny all other  
22 allegations contained in FAC Paragraph 11.  
23

24 12. Answering Paragraph 12 of the FAC, BANA admits that an Assistant Vice  
25 President of BANA signed an Appointment of Successor Trustee relating to the subject loan.  
26 Except as expressly admitted, BANA denies each and every remaining allegation of this  
27  
28



1 paragraph. MERS is without sufficient information or knowledge to admit or deny the  
 2 allegations contained in this paragraph, and on that basis, denies them.

3 13. Answering Paragraph 13 of the FAC, BANA denies that it never had possession  
 4 of the subject note. MERS is without sufficient information or knowledge to admit or deny the  
 5 allegations contained in this paragraph, and on that basis, denies them. The remainder of FAC  
 6 Paragraph 13, is legal conclusions to which no response is required. To the extent a response  
 7 required, Defendants deny the remaining allegations.  
 8

### 9 JURISDICTION

10 14. Paragraphs 14-20 consist of legal arguments and conclusions to which no  
 11 response is required. To the extent a response is required Defendants admit that the Court has  
 12 jurisdiction and that venue is proper.  
 13

### 14 PARTIES

#### 15 ***PLAINTIFF***

16 21. Answering Paragraph 21 of the FAC, Defendants admits that Plaintiff Jeremy  
 17 Wolfson is a citizen of Washington based upon information and belief.  
 18

#### 19 ***DEFENDANT BANK OF AMERICA, N.A.***

20 22. Answering Paragraph 22 of the FAC, BANA admits that it is a national  
 21 association and a citizen of North Carolina. Except as expressly admitted, BANA denies each  
 22 and every remaining allegation of this paragraph. MERS is without sufficient information or  
 23 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, denies  
 24 them.  
 25

26 23. Paragraph 23 of the FAC, is a legal conclusion to which no response is required.  
 27 To the extent a response required, BANA denies the allegations. MERS is without sufficient  
 28



1 information or knowledge to admit or deny the allegations contained in this paragraph, and on  
2 that basis, denies them.

3 24. Paragraph 24 of the FAC, is a legal conclusion to which no response is required.  
4 To the extent a response required, BANA denies the allegations. MERS is without sufficient  
5 information or knowledge to admit or deny the allegations contained in this paragraph, and on  
6 that basis, denies them.  
7

8 25. Answering Paragraph 25 of the FAC, Defendants admit that BANA is the current,  
9 beneficiary of the subject Deed of Trust that Plaintiff signed. Except as expressly admitted,  
10 Defendants deny each and every remaining allegation of this paragraph.  
11

12 26. Answering Paragraph 26 of the FAC, BANA admits that it is the servicer of the  
13 subject loan and is not the owner of the subject loan. MERS is without sufficient information or  
14 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, denies  
15 them.  
16

17 27. Answering Paragraph 27 of the FAC, Plaintiff's purported definition of "the  
18 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
19 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
20 them.  
21

22 28. Answering Paragraph 28 of the FAC, Plaintiff's purported definition of "the  
23 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
24 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
25 them.  
26

27 29. Paragraph 29 of the FAC is a legal conclusion to which no response is required.  
28 To the extent a response is required, Plaintiff's purported definition of "the Note" is vague and



1 unidentifiable and thus Defendants are without sufficient information or knowledge to admit or  
2 deny the allegations contained in this paragraph, and on that basis, deny them.

3 30. Paragraph 30 of the FAC, is a legal conclusion to which no response is required.  
4 To the extent a response required, BANA denies the allegations. MERS is without sufficient  
5 information or knowledge to admit or deny the allegations contained in this paragraph, and on  
6 that basis, denies them.  
7

8 31. Paragraph 31 of the FAC is a legal conclusion to which no response is required.  
9 To the extent a response is required, Plaintiff's purported definition of "the Note" is vague and  
10 unidentifiable and thus Defendants are without sufficient information or knowledge to admit or  
11 deny the allegations contained in this paragraph, and on that basis, deny them.  
12

13 32. Paragraph 32 of the FAC is a legal conclusion to which no response is required.  
14 To the extent a response is required, Plaintiff's purported definition of "the Note" is vague and  
15 unidentifiable and thus Defendants are without sufficient information or knowledge to admit or  
16 deny the allegations contained in this paragraph, and on that basis, deny them.  
17

18 ***DEFENDANT MTC FINANCIAL INC. D/B/A TRUSTEE CORPS***

19 33. Answering Paragraph 33 of the FAC, Defendants lack sufficient information or  
20 knowledge to admit or deny the allegations contained therein, and on that basis, deny the  
21 allegations.  
22

23 34. Answering Paragraph 34 of the FAC, Defendants lack sufficient information or  
24 knowledge to admit or deny the allegations contained therein, and on that basis, deny the  
25 allegations.  
26  
27  
28



35. Answering Paragraph 35 of the FAC, BANA denies the allegations therein. MERS is without sufficient information or knowledge to admit or deny the allegations contained in this paragraph, and on that basis, denies them.

36. Answering Paragraph 36 of the FAC, BANA denies the allegations therein. MERS is without sufficient information or knowledge to admit or deny the allegations contained in this paragraph, and on that basis, denies them.

37. Answering Paragraph 37 of the FAC, Defendants lack sufficient information or knowledge to admit or deny the allegations contained therein, and on that basis, deny the allegations.

38. Answering Paragraph 38 of the FAC, BANA denies the allegations therein. MERS is without sufficient information or knowledge to admit or deny the allegations contained in this paragraph, and on that basis, denies them.

***DEFENDANT FIRST MAGNUS FINANCIAL CORPORATION,  
AN ARIZONA CORPORATION***

39. Answering Paragraph 39 of the FAC, Defendants admit that First Magnus Financial Corporation, an Arizona Corporation was the original lender for the subject loan. Except as expressly admitted, Defendants deny each and every remaining allegation of this paragraph.

40. Answering Paragraph 40 of the FAC, Defendants lack sufficient information or knowledge to admit or deny the allegations contained therein, and on that basis, deny the allegations.



1           41.     Answering Paragraph 41 of the FAC, Defendants lack sufficient information or  
2 knowledge to admit or deny the allegations contained therein, and on that basis, deny the  
3 allegations.

4           42.     Answering Paragraph 42 of the FAC, Defendants deny the allegations therein  
5 based upon information and belief.  
6

7           43.     Answering Paragraph 43 of the FAC, Defendants deny the allegations therein  
8 based upon information and belief.

9           44.     Answering Paragraph 44 of the FAC, Defendants lack sufficient information or  
10 knowledge to admit or deny the allegations contained therein, and on that basis, deny the  
11 allegations.  
12

13           45.     Answering Paragraph 45 of the FAC, Defendants deny the allegations therein  
14 based upon information and belief.

15 ***DEFENDANT MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.***

16           46.     Answering Paragraph 46 of the FAC, MERS admits that it is a corporation  
17 incorporated in the state of Delaware and that it is a wholly-owned subsidiary of MERSCORP  
18 Holdings, Inc., with its principal place of business in Reston, Virginia. MERS admits it is not  
19 registered as a foreign corporation in Washington State. MERS denies all other allegations.  
20 BANA is without sufficient information or knowledge to admit or deny the allegations contained  
21 in this paragraph, and on that basis, denies them.  
22

23           47.     Answering Paragraph 47 of the FAC, Plaintiff's purported definition of "the Note" is  
24 vague and unidentifiable and thus Defendants are without sufficient information or knowledge to  
25 admit or deny the allegations contained in this paragraph, and on that basis, deny them.  
26 Moreover, there is no definition for the term "the Property." As such, the allegations in this  
27  
28





paragraph are vague and unidentifiable and thus Defendants are without sufficient information or knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny them.

48. Answering Paragraph 48 of the FAC, Defendants admit that there is no recorded document making MERS an Attorney in Fact of BANA. Except as expressly admitted, Defendants deny each and every remaining allegation of this paragraph.

49. Answering Paragraph 49 of the FAC, Plaintiff's use of the term "a transaction" is vague and thus Defendants are without sufficient information or knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny them. However, MERS specifically denies that it engaged in any fraudulent actions with regard to the subject loan.

***DEFENDANT MERSCORP HOLDINGS, INC.***

50. This defendant has been dismissed from this action and therefore the allegation(s) contained in this paragraph are no longer relevant and no response is required.

51. This defendant has been dismissed from this action and therefore the allegation(s) contained in this paragraph are no longer relevant and no response is required.

52. This defendant has been dismissed from this action and therefore the allegation(s) contained in this paragraph are no longer relevant and no response is required.

***DEFENDANT MAROON HOLDING, LLC***

53. This defendant has been dismissed from this action and therefore the allegation(s) contained in this paragraph are no longer relevant and no response is required.

54. This defendant has been dismissed from this action and therefore the allegation(s) contained in this paragraph are no longer relevant and no response is required.



1           55.     This defendant has been dismissed from this action and therefore the allegation(s)  
2 contained in this paragraph are no longer relevant and no response is required.

3           56.     This defendant has been dismissed from this action and therefore the allegation(s)  
4 contained in this paragraph are no longer relevant and no response is required.

5 ***DEFENDANT INTERCONTINENTAL EXCHANGE, INC.***  
6

7           57.     This defendant has been dismissed from this action and therefore the allegation(s)  
8 contained in this paragraph are no longer relevant and no response is required.

9           58.     This defendant has been dismissed from this action and therefore the allegation(s)  
10 contained in this paragraph are no longer relevant and no response is required.

11           59.     This defendant has been dismissed from this action and therefore the allegation(s)  
12 contained in this paragraph are no longer relevant and no response is required.

13           60.     This defendant has been dismissed from this action and therefore the allegation(s)  
14 contained in this paragraph are no longer relevant and no response is required.

15           61.     This defendant has been dismissed from this action and therefore the allegation(s)  
16 contained in this paragraph are no longer relevant and no response is required.

17           62.     This defendant has been dismissed from this action and therefore the allegation(s)  
18 contained in this paragraph are no longer relevant and no response is required.

19 **FACTUAL ALLEGATIONS**  
20

21           63.     There are no allegations against Defendants in FAC Paragraph 63 and therefore  
22 no response is required.  
23

24 ***OWNERSHIP AND POSSESSION***  
25

26           64.     Answering Paragraph 64 of the FAC, on information and belief, BANA admits  
27 that Plaintiff is the current owner of the real property located at 16208 132nd Avenue East,  
28

1 Puyallup, Washington 98374 (the "Property") and that the FAC correctly states the legal  
 2 description and APN for the Property. Except as expressly admitted herein, Defendants lack  
 3 sufficient knowledge or information to form a belief as to the truth of the remaining allegations  
 4 and, on that basis, deny each and every remaining allegation contained therein.

5 65. Answering Paragraph 65 of the FAC, Defendants lack sufficient information and  
 6 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
 7 and every allegation contained therein.

8 66. Answering Paragraph 66 of the FAC, Defendants lack sufficient information and  
 9 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
 10 and every allegation contained therein.

11 67. Answering Paragraph 67 of the FAC, Defendants lack sufficient information and  
 12 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
 13 and every allegation contained therein.

14 68. Answering Paragraph 68 of the FAC, Defendants admit the allegation therein.

15 69. Answering Paragraph 69 of the FAC, Defendants lack sufficient information and  
 16 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
 17 and every allegation contained therein.

18 70. Answering Paragraph 70 of the FAC, Defendants lack sufficient information and  
 19 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
 20 and every allegation contained therein.

21 71. Answering Paragraph 71 of the FAC, BANA denies the allegations therein.  
 22 MERS is without sufficient information or knowledge to admit or deny the allegations contained  
 23 in this paragraph, and on that basis, denies them.



**THE DEED TO PLAINTIFF**

72. Answering Paragraph 72 of the FAC, the referenced Statutory Warranty Deed is a written document, which speaks for itself, and it is the best evidence of what is contained therein. Defendants deny any description of the referenced document and its terms to the extent the description is inconsistent with the referenced document. Except as expressly admitted herein, Defendants lack sufficient information or knowledge to admit or deny the allegations contained therein and, on that basis, deny the allegations.

73. Answering Paragraph 73 of the FAC, the referenced Statutory Warranty Deed is a written document, which speaks for itself, and it is the best evidence of what is contained therein. Defendants deny any description of the referenced document and its terms to the extent the description is inconsistent with the referenced document. Except as expressly admitted herein, Defendants lack sufficient information or knowledge to admit or deny the allegations contained therein and, on that basis, deny the allegations.

**THE ALLEGED LOAN**

74. Answering Paragraph 74 of the FAC, on information and belief, BANA admits that First Magnus Corporation, An Arizona Corporation ("First Magnus") lent money to Plaintiff and Erin D. Huffman on or about April 26, 2007. Except as expressly admitted herein, BANA denies each and every remaining allegation contained therein. MERS is without sufficient information or knowledge to admit or deny the allegations contained in this paragraph, and on that basis, denies them.

75. Answering Paragraph 75 of the FAC, on information and belief, BANA admits that First Magnus Corporation, An Arizona Corporation ("First Magnus") lent credit to Plaintiff and Erin D. Huffman on or about April 26, 2007. Except as expressly admitted herein, BANA



1 denies each and every remaining allegation contained therein. MERS is without sufficient  
 2 information or knowledge to admit or deny the allegations contained in this paragraph, and on  
 3 that basis, denies them.

4 76. Answering Paragraph 76 of the FAC, the referenced Deed of Trust is a written  
 5 document, which speaks for itself, and it is the best evidence of what is contained therein.  
 6 Defendants deny any description of the referenced document and its terms to the extent the  
 7 description is inconsistent with the referenced document. Except as expressly admitted herein,  
 8 Defendants lack sufficient information or knowledge to admit or deny the allegations contained  
 9 therein and, on that basis, deny the allegations.  
 10

11 77. Answering Paragraph 77 of the FAC, BANA denies the allegations therein on  
 12 information and belief. MERS is without sufficient information or knowledge to admit or deny  
 13 the allegations contained in this paragraph, and on that basis, denies them.  
 14

15 78. Answering Paragraph 78 of the FAC, BANA denies the allegations therein on  
 16 information and belief. MERS is without sufficient information or knowledge to admit or deny  
 17 the allegations contained in this paragraph, and on that basis, denies them.  
 18

19 79. Answering Paragraph 79 of the FAC, Plaintiff's purported definition of "the  
 20 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
 21 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
 22 them.  
 23

24 80. Answering Paragraph 80 of the FAC, the referenced Deed of Trust is a written  
 25 document, which speaks for itself, and it is the best evidence of what is contained therein.  
 26 Defendants deny any description of the referenced document and its terms to the extent the  
 27 description is inconsistent with the referenced document. Except as expressly admitted herein,  
 28



1 Defendants lack sufficient information or knowledge to admit or deny the allegations contained  
2 therein and, on that basis, deny the allegations.

3 81. Answering Paragraph 81 of the FAC, BANA denies the allegations therein on  
4 information and belief. MERS is without sufficient information or knowledge to admit or deny  
5 the allegations contained in this paragraph, and on that basis, denies them.

6 82. Paragraph 82 of the FAC is a legal conclusion to which no response is required.  
7 To the extent a response required, Plaintiff's purported definition of "the Note" is vague and  
8 unidentifiable and thus Defendants are without sufficient information or knowledge to admit or  
9 deny the allegations contained in this paragraph, and on that basis, deny them.

10 83. Paragraph 83 of the FAC is a legal conclusion to which no response is required.  
11 To the extent a response required, Plaintiff's purported definition of "the Note" is vague and  
12 unidentifiable and thus Defendants are without sufficient information or knowledge to admit or  
13 deny the allegations contained in this paragraph, and on that basis, deny them.

14 84. Paragraph 84 of the FAC is a legal conclusion to which no response is required.  
15 To the extent a response required, Plaintiff's purported definition of "the Note" is vague and  
16 unidentifiable and thus Defendants are without sufficient information or knowledge to admit or  
17 deny the allegations contained in this paragraph, and on that basis, deny them.

18 85. Paragraph 85 of the FAC is a legal conclusion to which no response is required.  
19 To the extent a response required, Plaintiff's purported definition of "the Note" is vague and  
20 unidentifiable and thus Defendants are without sufficient information or knowledge to admit or  
21 deny the allegations contained in this paragraph, and on that basis, deny them.

22 86. Paragraph 86 of the FAC is a legal conclusion to which no response is required.  
23 To the extent a response required, Plaintiff's purported definition of "the Note" is vague and  
24 deny the allegations contained in this paragraph, and on that basis, deny them.



1 unidentifiable and thus Defendants are without sufficient information or knowledge to admit or  
2 deny the allegations contained in this paragraph, and on that basis, deny them.

3 87. Answering Paragraph 87 of the FAC, Defendants lack sufficient information and  
4 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
5 and every allegation contained therein.

6  
7 88. Answering Paragraph 88 of the FAC, Defendants lack sufficient information and  
8 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
9 and every allegation contained therein.

10 89. Answering Paragraph 89 of the FAC, Plaintiff's purported definition of "the  
11 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
12 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
13 them.

14  
15 90. Answering Paragraph 90 of the FAC, Plaintiff's purported definition of "the  
16 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
17 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
18 them.

19  
20 91. Answering Paragraph 91 of the FAC, BANA denies the allegations therein on  
21 information and belief. MERS is without sufficient information or knowledge to admit or deny  
22 the allegations contained in this paragraph, and on that basis, denies them.

23  
24 92. Answering Paragraph 92 of the FAC, Defendants lack sufficient information and  
25 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
26 and every allegation contained therein.



1           93.     Answering Paragraph 93 of the FAC, Defendants lack sufficient information and  
2 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
3 and every allegation contained therein.

4           94.     Paragraph 94 of the FAC contains allegations regarding Plaintiff's own personal  
5 beliefs and thus, Defendants lack sufficient information and belief upon which to admit or deny  
6 the allegations contained therein, and on that basis deny each and every allegation contained  
7 therein.  
8

9           95.     Answering Paragraph 95 of the FAC, Defendants lack sufficient information and  
10 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
11 and every allegation contained therein.  
12

13           96.     Answering Paragraph 96 of the FAC, Defendants lack sufficient information and  
14 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
15 and every allegation contained therein.

16           97.     Answering Paragraph 97 of the FAC, Plaintiff's purported definition of "the  
17 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
18 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
19 them. MERS is without sufficient information or knowledge to admit or deny the allegations  
20 contained in this paragraph, and on that basis, denies them.  
21

22           98.     Answering Paragraph 98 of the FAC, BANA denies the allegations therein.  
23 MERS is without sufficient information or knowledge to admit or deny the allegations contained  
24 in this paragraph, and on that basis, denies them.  
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1           99.     Answering Paragraph 97 of the FAC, BANA denies the allegations therein in that  
2 BANA is the servicer for the subject loan. MERS is without sufficient information or knowledge  
3 to admit or deny the allegations contained in this paragraph, and on that basis, denies them.

4           100.   Answering Paragraph 100 of the FAC, Defendants lack sufficient information and  
5 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
6 and every allegation contained therein.

7           101.   Answering Paragraph 101 of the FAC, Plaintiff's purported definition of "the  
8 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
9 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
10 them.  
11

12           102.   Answering Paragraph 102 of the FAC, Plaintiff's purported definition of "the  
13 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
14 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
15 them.  
16

17 ***THE DEED OF TRUST***  
18

19           103.   Answering Paragraph 103 of the FAC, the referenced Deed of Trust is a written  
20 document, which speaks for itself, and it is the best evidence of what is contained therein.  
21 Defendants deny any description of the referenced document and its terms to the extent the  
22 description is inconsistent with the referenced document. Except as expressly admitted herein,  
23 Defendants lack sufficient information or knowledge to admit or deny the allegations contained  
24 therein and, on that basis, deny the allegations.  
25

26           104.   Answering Paragraph 104 of the FAC, the referenced Deed of Trust is a written  
27 document, which speaks for itself, and it is the best evidence of what is contained therein.  
28



1 Defendants deny any description of the referenced document and its terms to the extent the  
2 description is inconsistent with the referenced document. Except as expressly admitted herein,  
3 Defendants lack sufficient information or knowledge to admit or deny the allegations contained  
4 therein and, on that basis, deny the allegations.

5 105. Answering Paragraph 105 of the FAC, on information and belief, Defendants  
6 deny the allegation therein.  
7

8 106. Answering Paragraph 106 of the FAC, the referenced Deed of Trust is a written  
9 document, which speaks for itself, and it is the best evidence of what is contained therein.  
10 Defendants deny any description of the referenced document and its terms to the extent the  
11 description is inconsistent with the referenced document. Except as expressly admitted herein,  
12 Defendants lack sufficient information or knowledge to admit or deny the allegations contained  
13 therein and, on that basis, deny the allegations.  
14

15 107. Answering Paragraph 107 of the FAC, BANA denies the allegations therein on  
16 information and belief. MERS is without sufficient information or knowledge to admit or deny  
17 the allegations contained in this paragraph, and on that basis, denies them.  
18

19 108. Answering Paragraph 108 of the FAC, the referenced Deed of Trust is a written  
20 document, which speaks for itself, and it is the best evidence of what is contained therein.  
21 Defendants deny any description of the referenced document and its terms to the extent the  
22 description is inconsistent with the referenced document. Except as expressly admitted herein,  
23 Defendants lack sufficient information or knowledge to admit or deny the allegations contained  
24 therein and, on that basis, deny the allegations.  
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1           109. Answering Paragraph 109 of the FAC, BANA denies the allegations therein on  
2 information and belief. MERS is without sufficient information or knowledge to admit or deny  
3 the allegations contained in this paragraph, and on that basis, denies them.

4           110. Answering Paragraph 110 of the FAC, BANA denies the allegations therein on  
5 information and belief. MERS is without sufficient information or knowledge to admit or deny  
6 the allegations contained in this paragraph, and on that basis, denies them.

7           111. Answering Paragraph 111 of the FAC, the referenced Deed of Trust is a written  
8 document, which speaks for itself, and it is the best evidence of what is contained therein.  
9 Defendants deny any description of the referenced document and its terms to the extent the  
10 description is inconsistent with the referenced document. Except as expressly admitted herein,  
11 Defendants lack sufficient information or knowledge to admit or deny the allegations contained  
12 therein and, on that basis, deny the allegations.

13           112. Answering Paragraph 111 of the FAC, the referenced Deed of Trust is a written  
14 document, which speaks for itself, and it is the best evidence of what is contained therein.  
15 Defendants deny any description of the referenced document and its terms to the extent the  
16 description is inconsistent with the referenced document. BANA admits that the subject loan  
17 had a forty-year term at origination. Except as expressly admitted herein, BANA denies the  
18 remaining allegations therein on information and belief. MERS is without sufficient information  
19 or knowledge to admit or deny the allegations contained in this paragraph, and on that basis,  
20 denies them.

21           113. Answering Paragraph 113 of the FAC, BANA denies the allegations therein on  
22 information and belief. MERS is without sufficient information or knowledge to admit or deny  
23 the allegations contained in this paragraph, and on that basis, denies them.



1 114. Answering Paragraph 114 of the FAC, BANA denies the allegations therein on  
 2 information and belief. MERS is without sufficient information or knowledge to admit or deny  
 3 the allegations contained in this paragraph, and on that basis, denies them.

4 ***FIRST MAGNUS WENT OUT OF BUSINESS***

5 115. Answering Paragraph 115 of the FAC, Defendants lack sufficient information and  
 6 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
 7 and every allegation contained therein.

8 116. Answering Paragraph 116 of the FAC, the referenced website and the contents  
 9 thereon speaks for itself and is the best evidence of what is contained therein. Defendants deny  
 10 any description of the referenced website and its contents to the extent the description is  
 11 inconsistent with the referenced website. Except as expressly admitted herein, Defendants lack  
 12 sufficient information or knowledge to admit or deny the allegations contained therein and, on  
 13 that basis, deny the allegations.

14 ***THE SECURITIZATION***

15 117. Answering Paragraph 117 of the FAC, Plaintiff's purported definition of "the  
 16 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
 17 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
 18 them.

19 118. Answering Paragraph 118 of the FAC, Defendants lack sufficient information and  
 20 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
 21 and every allegation contained therein.

22 119. Answering Paragraph 119 of the FAC, Defendants respond that this paragraph  
 23 contains a legal conclusion that does not require a response. To the extent this paragraph requires  
 24  
 25  
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 28



1 a response Defendants are without sufficient knowledge or information to admit or deny the  
2 allegations and on that basis deny each and every allegation of this paragraph.

3 120. Answering Paragraph 120 of the FAC, Defendants lack sufficient information and  
4 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
5 and every allegation contained therein.  
6

7 121. Answering Paragraph 121 of the FAC, Defendants lack sufficient information and  
8 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
9 and every allegation contained therein.  
10

11 122. Answering Paragraph 122 of the FAC, Defendants lack sufficient information and  
12 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
13 and every allegation contained therein.

14 123. Answering Paragraph 123 of the FAC, Plaintiff's purported definition of "the  
15 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
16 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
17 them.  
18

19 124. Answering Paragraph 124 of the FAC, Plaintiff's purported definition of "the  
20 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
21 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
22 them.  
23

24 125. Answering Paragraph 125 of the FAC, Plaintiff's purported definition of "the  
25 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
26 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
27 them.  
28



1           126. Answering Paragraph 126 of the FAC, Defendants lack sufficient information and  
2 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
3 and every allegation contained therein.

4           127. Answering Paragraph 127 of the FAC, Plaintiff's purported definition of "the  
5 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
6 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
7 them.  
8

9           128. Answering Paragraph 128 of the FAC, BANA admits that it has a designated  
10 document custodian who holds the original notes for it, as well as the delivery and receipt  
11 certificates regarding those notes. Except as expressly admitted, Defendants are without  
12 sufficient information or knowledge to admit or deny the allegations contained in this paragraph,  
13 and on that basis, deny them.  
14

15           129. Answering Paragraph 129 of the FAC, Defendants lack sufficient information and  
16 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
17 and every allegation contained therein.  
18

19           130. Answering Paragraph 130 of the FAC, Defendants lack sufficient information and  
20 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
21 and every allegation contained therein.  
22

23           131. Answering Paragraph 131 of the FAC, Defendants lack sufficient information and  
24 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
25 and every allegation contained therein.  
26  
27  
28



1           132. Answering Paragraph 132 of the FAC, Defendants lack sufficient information and  
2 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
3 and every allegation contained therein.

4           133. Answering Paragraph 133 of the FAC, Defendants lack sufficient information and  
5 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
6 and every allegation contained therein.

7           134. Answering Paragraph 134 of the FAC, Defendants lack sufficient information and  
8 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
9 and every allegation contained therein.

10           135. Answering Paragraph 135 of the FAC, Defendants lack sufficient information and  
11 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
12 and every allegation contained therein.

13  
14  
15 ***THE ASSIGNMENT OF DEED OF TRUST TO BANA***

16           136. Answering Paragraph 136 of the FAC, the referenced Assignment of Deed of  
17 Trust is a written document, which speaks for itself, and it is the best evidence of what is  
18 contained therein. Defendants deny any description of the referenced document and its terms to  
19 the extent the description is inconsistent with the referenced document. Except as expressly  
20 admitted herein, Defendants lack sufficient information or knowledge to admit or deny the  
21 allegations contained therein and, on that basis, deny the allegations.

22           137. Answering Paragraph 137 of the FAC, the referenced Assignment of Deed of  
23 Trust is a written document, which speaks for itself, and it is the best evidence of what is  
24 contained therein. Defendants deny any description of the referenced document and its terms to  
25 the extent the description is inconsistent with the referenced document. Except as expressly  
26  
27  
28



1 admitted herein, Defendants lack sufficient information or knowledge to admit or deny the  
 2 allegations contained therein and, on that basis, deny the allegations.

3 138. Answering Paragraph 138 of the FAC, the referenced Assignment of Deed of  
 4 Trust is a written document, which speaks for itself, and it is the best evidence of what is  
 5 contained therein. Defendants deny any description of the referenced document and its terms to  
 6 the extent the description is inconsistent with the referenced document. Except as expressly  
 7 admitted herein, Defendants lack sufficient information or knowledge to admit or deny the  
 8 allegations contained therein and, on that basis, deny the allegations.

10 139. Answering Paragraph 139 of the FAC, the referenced Assignment of Deed of  
 11 Trust is a written document, which speaks for itself, and it is the best evidence of what is  
 12 contained therein. Defendants deny any description of the referenced document and its terms to  
 13 the extent the description is inconsistent with the referenced document. Except as expressly  
 14 admitted herein, Defendants lack sufficient information or knowledge to admit or deny the  
 15 allegations contained therein and, on that basis, deny the allegations.

17 140. Answering Paragraph 140 of the FAC, the referenced Assignment of Deed of  
 18 Trust is a written document, which speaks for itself, and it is the best evidence of what is  
 19 contained therein. Defendants deny any description of the referenced document and its terms to  
 20 the extent the description is inconsistent with the referenced document. Except as expressly  
 21 admitted herein, Defendants lack sufficient information or knowledge to admit or deny the  
 22 allegations contained therein and, on that basis, deny the allegations.

25 141. Answering Paragraph 141 of the FAC, Defendants deny the allegations therein.

26 142. Answering Paragraph 142 of the FAC, the referenced Assignment of Deed of  
 27 Trust is a written document, which speaks for itself, and it is the best evidence of what is  
 28





1 contained therein. Defendants deny any description of the referenced document and its terms to  
 2 the extent the description is inconsistent with the referenced document. Except as expressly  
 3 admitted herein, Defendants lack sufficient information or knowledge to admit or deny the  
 4 allegations contained therein and, on that basis, deny the allegations.

5 143. Paragraph 143 of the FAC is vague as to time and Plaintiff's purported definition  
 6 of "the Note" is vague and unidentifiable. Therefore, Defendants lack sufficient information and  
 7 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
 8 and every allegation contained therein.

9 144. Answering Paragraph 144 of the FAC, Plaintiff's purported definition of "the  
 10 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
 11 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
 12 them.

13 145. Answering Paragraph 145 of the FAC, BANA admits that it is the loan servicer of  
 14 the subject loan on behalf of the owner of the loan. Except as expressly admitted herein,  
 15 Defendants lack sufficient information or knowledge to admit or deny the remaining allegations  
 16 contained therein and, on that basis, deny the remaining allegations.

17 146. Answering Paragraph 146 of the FAC, Defendants lack sufficient information and  
 18 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
 19 and every allegation contained therein.

20 147. Answering Paragraph 147 of the FAC, Defendants lack sufficient information and  
 21 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
 22 and every allegation contained therein.



1           148. Answering Paragraph 148 of the FAC, MERS denies the allegation therein.  
2 BANA is without sufficient information or knowledge to admit or deny the allegations contained  
3 in this paragraph, and on that basis, denies them.

4           149. Answering Paragraph 149 of the FAC, Defendants lack sufficient information and  
5 belief upon which to admit or deny the allegations contained therein, and on that basis deny each  
6 and every allegation contained therein.  
7

8           150. Paragraph 150 of the FAC, contains legal conclusions that do not require a  
9 response. To the extent this paragraph requires a response, Defendants deny the allegations  
10 therein.  
11

12           151. Paragraph 151 of the FAC, contains legal conclusions that do not require a  
13 response. To the extent this paragraph requires a response, Defendants deny the allegations  
14 therein.

15           152. Answering Paragraph 152 of the FAC, Plaintiff's allegations are vague as to what  
16 context Plaintiff is claiming that First Magnus had no successors or assigns and thus Defendants  
17 lack sufficient information and belief upon which to admit or deny the allegations contained  
18 therein, and on that basis deny each and every allegation contained therein.  
19

20           153. Paragraph 153 of the FAC, contains legal conclusions that do not require a  
21 response and Plaintiff's allegations are vague as to what context Plaintiff is claiming that First  
22 Magnus had no successors or assigns. To the extent this paragraph requires a response,  
23 Defendants deny the allegations therein.  
24

25           154. Paragraph 154 of the FAC, contains legal conclusions that do not require a  
26 response. To the extent this paragraph requires a response, Defendants lack sufficient  
27 information and belief about First Magnus Financial Corporation's status upon which to admit or  
28



1 deny that allegation, and on that basis deny that allegation, as well as each and every remaining  
 2 allegation contained therein.

3 155. Paragraph 155 of the FAC is vague as to “the disputed transaction” and thus,  
 4 Defendants lack sufficient information and belief upon which to admit or deny the allegations  
 5 contained therein, and on that basis deny each and every allegation contained therein.  
 6

7 156. Paragraph 156 of the FAC is vague as to “the promissory note,” “other  
 8 instrument,” and “the obligation.” Subject to, and without waiving, those objections, Defendants  
 9 admit that MERS never held the note for the subject loan. Except as expressly admitted herein,  
 10 Defendants lack sufficient information and belief upon which to admit or deny the remaining  
 11 allegations contained therein, and on that basis deny each and every allegation contained therein.  
 12

13 157. Answering Paragraph 157 of the FAC, the referenced Assignment of Deed of  
 14 Trust is a written document, which speaks for itself, and it is the best evidence of what is  
 15 contained therein. Defendants deny any description of the referenced document and its terms to  
 16 the extent the description is inconsistent with the referenced document. Except as expressly  
 17 admitted herein, Defendants lack sufficient information or knowledge to admit or deny the  
 18 allegations contained therein and, on that basis, deny the allegations.  
 19

20 158. Answering Paragraph 158 of the FAC, Defendants respond that this paragraph  
 21 contains legal conclusions that do not require a response. To the extent this paragraph requires a  
 22 response Defendants are without sufficient knowledge or information to admit or deny the  
 23 allegations and on that basis deny each and every allegation of this paragraph.  
 24

25 159. Paragraph 159 of the FAC is vague as to “the disputed transaction” and thus,  
 26 Defendants lack sufficient information and belief upon which to admit or deny the allegations  
 27 contained therein, and on that basis deny each and every allegation contained therein.  
 28



1           160. Paragraph 160 of the FAC is vague as to “the disputed transaction” and thus,  
2 Defendants lack sufficient information and belief upon which to admit or deny the allegations  
3 contained therein, and on that basis deny each and every allegation contained therein.

4           161. Paragraph 161 of the FAC is vague as to “the disputed transaction” and thus,  
5 Defendants lack sufficient information and belief upon which to admit or deny the allegations  
6 contained therein, and on that basis deny each and every allegation contained therein.

7           162. Answering Paragraph 162 of the FAC, Defendants respond that this paragraph  
8 contains legal conclusions that do not require a response. To the extent this paragraph requires a  
9 response Defendants deny each and every allegation of this paragraph.

10           163. Answering Paragraph 163 of the FAC, Defendants deny each and every allegation  
11 of this paragraph.

12           164. Paragraph 164 of the FAC does not state a factual allegation, but instead attempts  
13 to state either argument or legal conclusions to which no response is required. To the extent this  
14 paragraph requires a response, Defendants deny the allegations therein.

15           165. Paragraph 165 of the FAC does not state a factual allegation, but instead attempts  
16 to state either argument or legal conclusions to which no response is required. To the extent this  
17 paragraph requires a response, Defendants deny the allegations therein.

18           166. Paragraph 166 of the FAC does not state a factual allegation, but instead attempts  
19 to state either argument or legal conclusions to which no response is required. To the extent this  
20 paragraph requires a response, Defendants lack sufficient information and belief upon which to  
21 admit or deny the allegations contained therein, and on that basis deny each and every allegation  
22 contained therein.  
23  
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1           167. Paragraph 167 of the FAC does not state a factual allegation, but instead attempts  
2 to state either argument or legal conclusions to which no response is required. To the extent this  
3 paragraph requires a response, Defendants deny the allegations therein.

4           168. Paragraph 168 of the FAC does not state a factual allegation, but instead attempts  
5 to state either argument or legal conclusions to which no response is required. To the extent this  
6 paragraph requires a response, Defendants deny the allegations therein.

7           169. Paragraph 169 of the FAC does not state a factual allegation, but instead attempts  
8 to state either argument or legal conclusions to which no response is required. To the extent this  
9 paragraph requires a response, Defendants deny the allegations therein.

10           170. Paragraph 170 of the FAC does not state a factual allegation, but instead attempts  
11 to state either argument or legal conclusions to which no response is required. To the extent this  
12 paragraph requires a response, Defendants deny the allegations therein.

13           171. Paragraph 171 of the FAC does not state a factual allegation, but instead attempts  
14 to state either argument or legal conclusions to which no response is required. To the extent this  
15 paragraph requires a response, Defendants deny the allegations therein.

16           172. Answering Paragraph 172 of the FAC, Plaintiff's purported definition of "the  
17 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
18 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
19 them.

20           173. Answering Paragraph 173 of the FAC, Defendants admit the allegations contained  
21 therein.  
22  
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1           174. Answering Paragraph 174 of the FAC, Defendants respond that this paragraph  
2 contains legal conclusions that do not require a response. To the extent this paragraph requires a  
3 response Defendants deny each and every allegation of this paragraph.

4           175. Answering Paragraph 175 of the FAC, the referenced Assignment of Deed of  
5 Trust is a written document, which speaks for itself, and it is the best evidence of what is  
6 contained therein. Defendants deny any description of the referenced document and its terms to  
7 the extent the description is inconsistent with the referenced document. Except as expressly  
8 admitted herein, Defendants lack sufficient information or knowledge to admit or deny the  
9 allegations contained therein and, on that basis, deny the allegations.

10           176. Paragraph 176 of the FAC is vague as to “conveyed” and Plaintiff’s purported  
11 definition of “the Note” is vague and unidentifiable. Therefore, BANA lacks sufficient  
12 information and belief upon which to admit or deny the allegations contained therein, and on that  
13 basis denies each and every allegation contained therein. MERS is without sufficient  
14 information or knowledge to admit or deny the allegations contained in this paragraph, and on  
15 that basis, denies them.

16           177. Paragraph 177 of the FAC is vague as to “conveyed” and Plaintiff’s purported  
17 definition of “the Note” is vague and unidentifiable. Therefore, BANA lacks sufficient  
18 information and belief upon which to admit or deny the allegations contained therein, and on that  
19 basis denies each and every allegation contained therein. MERS is without sufficient  
20 information or knowledge to admit or deny the allegations contained in this paragraph, and on  
21 that basis, denies them.

22           178. Paragraph 178 of the FAC is vague as to “delivered” and Plaintiff’s purported  
23 definition of “the Note” is vague and unidentifiable. Therefore, BANA lacks sufficient  
24 information and belief upon which to admit or deny the allegations contained therein, and on  
25 that basis, denies them.



1 information and belief upon which to admit or deny the allegations contained therein, and on that  
 2 basis denies each and every allegation contained therein. MERS is without sufficient  
 3 information or knowledge to admit or deny the allegations contained in this paragraph, and on  
 4 that basis, denies them.

5 179. Paragraph 179 of the FAC is vague as to “negotiated” and Plaintiff’s purported  
 6 definition of “the Note” is vague and unidentifiable. Therefore, BANA lacks sufficient  
 7 information and belief upon which to admit or deny the allegations contained therein, and on that  
 8 basis denies each and every allegation contained therein. MERS is without sufficient  
 9 information or knowledge to admit or deny the allegations contained in this paragraph, and on  
 10 that basis, denies them.

11 180. Answering Paragraph 180 of the FAC, Defendants lack sufficient information or  
 12 knowledge to admit or deny the allegations contained therein and, on that basis, deny the  
 13 allegations.

14 181. Answering Paragraph 181 of the FAC, Plaintiff’s purported definition of “the  
 15 Note” is vague and unidentifiable and thus Defendants are without sufficient information or  
 16 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
 17 them.

18 182. Answering Paragraph 182 of the FAC, Plaintiff’s purported definition of “the  
 19 Note” is vague and unidentifiable and thus Defendants are without sufficient information or  
 20 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
 21 them.

22 183. Paragraph 183 of the FAC does not state a factual allegation, but instead attempts  
 23 to state either argument or legal conclusions to which no response is required. To the extent this  
 24



1 paragraph requires a response, BANA denies each and every allegation contained therein.

2 MERS is without sufficient information or knowledge to admit or deny the allegations contained  
3 in this paragraph, and on that basis, denies them.

4 184. Paragraph 184 of the FAC is vague as to any facts and thus, Defendants are  
5 without sufficient information or knowledge to admit or deny the allegations contained in this  
6 paragraph, and on that basis, deny them.

7  
8 185. Answering Paragraph 185 of the FAC, Plaintiff's purported definition of "the  
9 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
10 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
11 them.

12  
13 186. Answering Paragraph 186 of the FAC, Plaintiff's purported definition of "the  
14 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
15 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
16 them.

17  
18 187. Paragraph 187 of the FAC is vague as to "the transaction" and thus, Defendants  
19 are without sufficient information or knowledge to admit or deny the allegations contained in this  
20 paragraph, and on that basis, deny them.

21 188. Answering Paragraph 188 of the FAC, Plaintiff's purported definition of "the  
22 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
23 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
24 them.

25  
26 189. Answering Paragraph 189 of the FAC, Plaintiff's purported definition of "the  
27 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
28





1 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
2 them.

3 190. Answering Paragraph 190 of the FAC, Plaintiff's purported definition of "the  
4 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
5 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
6 them.  
7

8 191. Answering Paragraph 191 of the FAC, Defendants deny each and every allegation  
9 of this paragraph.

10 192. Paragraph 192 of the FAC contains no allegations and thus no response is  
11 required. To the extent this paragraph requires a response Defendants deny each and every  
12 allegation of this paragraph.  
13

14 ***THE APPOINTMENT OF SUCCESSOR TRUSTEE***

15 193. Answering Paragraph 193 of the FAC, the referenced Appointment of Successor  
16 Trustee is a written document, which speaks for itself, and it is the best evidence of what is  
17 contained therein. Defendants deny any description of the referenced document and its terms to  
18 the extent the description is inconsistent with the referenced document. Except as expressly  
19 admitted herein, Defendants lack sufficient information or knowledge to admit or deny the  
20 allegations contained therein and, on that basis, deny the allegations.  
21

22 194. Answering Paragraph 194 of the FAC, the referenced Appointment of Successor  
23 Trustee is a written document, which speaks for itself, and it is the best evidence of what is  
24 contained therein. Defendants deny any description of the referenced document and its terms to  
25 the extent the description is inconsistent with the referenced document. Except as expressly  
26  
27  
28



1 admitted herein, Defendants lack sufficient information or knowledge to admit or deny the  
2 allegations contained therein and, on that basis, deny the allegations.

3 195. Paragraph 195 of the FAC does not state a factual allegation, but instead attempts  
4 to state either argument or legal conclusions to which no response is required. To the extent this  
5 paragraph requires a response, BANA denies each and every allegation contained therein.  
6 MERS is without sufficient information or knowledge to admit or deny the allegations contained  
7 in this paragraph, and on that basis, denies them.

9 196. Answering Paragraph 196 of the FAC, BANA denies each and every allegation  
10 contained therein. MERS is without sufficient information or knowledge to admit or deny the  
11 allegations contained in this paragraph, and on that basis, denies them.

13 197. Answering Paragraph 197 of the FAC, BANA denies each and every allegation  
14 contained therein. MERS is without sufficient information or knowledge to admit or deny the  
15 allegations contained in this paragraph, and on that basis, denies them.

16 198. Answering Paragraph 198 of the FAC, BANA denies each and every allegation  
17 contained therein based on information and belief. MERS is without sufficient information or  
18 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, denies  
19 them.

21 199. Paragraph 199 of the FAC is vague as to any facts and thus, Defendants are  
22 without sufficient information or knowledge to admit or deny the allegations contained in this  
23 paragraph, and on that basis, deny them.

25 200. Paragraph 200 of the FAC, contains legal conclusions that do not require a  
26 response. To the extent his paragraph requires a response, Defendants deny the allegations  
27 therein.



1           201. Paragraph 201 of the FAC, contains legal conclusions that do not require a  
2 response. To the extent his paragraph requires a response, Defendants deny the allegations  
3 therein.

4           202. Paragraph 202 of the FAC, contains legal conclusions that do not require a  
5 response. To the extent his paragraph requires a response, Defendants deny the allegations  
6 therein.

7  
8           203. Answering Paragraph 203 of the FAC, BANA denies each and every allegation  
9 contained therein. MERS is without sufficient information or knowledge to admit or deny the  
10 allegations contained in this paragraph, and on that basis, denies them.

11  
12           204. Answering Paragraph 204 of the FAC, BANA denies each and every allegation  
13 contained therein. MERS is without sufficient information or knowledge to admit or deny the  
14 allegations contained in this paragraph, and on that basis, denies them.

15           205. Paragraph 205 of the FAC, contains legal conclusions that do not require a  
16 response. To the extent his paragraph requires a response, Defendants deny the allegations  
17 therein.

18  
19           206. Paragraph 206 of the FAC, contains legal conclusions that do not require a  
20 response. To the extent his paragraph requires a response, Defendants deny the allegations  
21 therein.

22 ***THE REFUSED LOAN MODIFICATION***

23  
24           207. Answering Paragraph 207 of the FAC, Plaintiff's allegations are vague and overly  
25 broad. Subject to, and without waiving, those objections, BANA admits that Plaintiff applied to  
26 BANA for a loan modification on multiple occasions. Except as expressly admitted herein,  
27 BANA denies all remaining allegations contained therein. MERS is without sufficient  
28



1 information or knowledge to admit or deny the allegations contained in this paragraph, and on  
2 that basis, denies them.

3 208. Answering Paragraph 208 of the FAC, Plaintiff's allegations are vague and overly  
4 broad. Subject to, and without waiving, those objections, BANA admits that BANA offered  
5 Plaintiff a trial period plan on multiple occasions. Except as expressly admitted herein, BANA  
6 denies all remaining allegations contained therein. MERS is without sufficient information or  
7 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, denies  
8 them.  
9

10 209. Answering Paragraph 209 of the FAC, Plaintiff's allegations are vague and overly  
11 broad. Subject to, and without waiving, those objections, BANA denies that it ever denied  
12 Plaintiff a permanent loan modification for no adequate reason. MERS is without sufficient  
13 information or knowledge to admit or deny the allegations contained in this paragraph, and on  
14 that basis, denies them.  
15

16 ***THE MISSING NOTICE OF DEFAULT***  
17

18 210. Answering Paragraph 210 of the FAC, BANA admits that no Notice of Default  
19 has been recorded relating to the subject loan and that recordation is not required. MERS is  
20 without sufficient information or knowledge to admit or deny the allegations contained in this  
21 paragraph, and on that basis, denies them.  
22

23 ***THE NOTICE OF TRUSTEE'S SALE***  
24

25 211. Answering Paragraph 211 of the FAC, the referenced Notice of Trustee's Sale is a  
26 written document, which speaks for itself, and it is the best evidence of what is contained therein.  
27 Defendants deny any description of the referenced document and its terms to the extent the  
28 description is inconsistent with the referenced document. Except as expressly admitted herein,



1 Defendants lack sufficient information or knowledge to admit or deny the allegations contained  
2 therein and, on that basis, deny the allegations.

3 212. Answering Paragraph 212 of the FAC, Defendants are without sufficient  
4 information or knowledge to admit or deny the allegations contained in this paragraph, and on  
5 that basis, deny them.

6  
7 213. Answering Paragraph 213 of the FAC, Defendants are without sufficient  
8 information or knowledge to admit or deny the allegations contained in this paragraph, and on  
9 that basis, deny them.

10 214. Answering Paragraph 214 of the FAC, Defendants are without sufficient  
11 information or knowledge to admit or deny the allegations contained in this paragraph, and on  
12 that basis, deny them.

13  
14 215. Answering Paragraph 215 of the FAC, the referenced Notice of Trustee's Sale is a  
15 written document, which speaks for itself, and it is the best evidence of what is contained therein.  
16 Defendants deny any description of the referenced document and its terms to the extent the  
17 description is inconsistent with the referenced document. Except as expressly admitted herein,  
18 Defendants lack sufficient information or knowledge to admit or deny the allegations contained  
19 therein and, on that basis, deny the allegations.

20  
21 216. Answering Paragraph 216 of the FAC, Defendants deny each and every allegation  
22 contained therein.

23  
24 217. Answering Paragraph 217 of the FAC, the referenced Notice of Trustee's Sale is a  
25 written document, which speaks for itself, and it is the best evidence of what is contained therein.  
26 Defendants deny any description of the referenced document and its terms to the extent the  
27 description is inconsistent with the referenced document. Except as expressly admitted herein,  
28



1 Defendants lack sufficient information or knowledge to admit or deny the allegations contained  
2 therein and, on that basis, deny the allegations.

3 218. Answering Paragraph 218 of the FAC, Defendants deny each and every allegation  
4 contained therein.

5 219. Answering Paragraph 219 of the FAC, the referenced Notice of Trustee's Sale is a  
6 written document, which speaks for itself, and it is the best evidence of what is contained therein.  
7 Defendants deny any description of the referenced document and its terms to the extent the  
8 description is inconsistent with the referenced document. Except as expressly admitted herein,  
9 Defendants lack sufficient information or knowledge to admit or deny the allegations contained  
10 therein and, on that basis, deny the allegations.  
11

12 220. Answering Paragraph 220 of the FAC, Defendants are without sufficient  
13 information or knowledge to admit or deny the allegations contained in this paragraph, and on  
14 that basis, deny them.  
15

16 221. Answering Paragraph 221 of the FAC, Defendants are without sufficient  
17 information or knowledge to admit or deny the allegations contained in this paragraph, and on  
18 that basis, deny them.  
19

20 222. Answering Paragraph 222 of the FAC, BANA denies each and every allegation  
21 contained therein. MERS is without sufficient information or knowledge to admit or deny the  
22 allegations contained in this paragraph, and on that basis, denies them.  
23

24 ***THE ABSENCE OF CHAIN OF TITLE***

25 223. Answering Paragraph 223 of the FAC, BANA responds that this paragraph  
26 contains a legal conclusion that does not require a response. To the extent this paragraph requires  
27 a response, BANA denies the allegations therein. MERS is without sufficient information or  
28



1 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, denies  
2 them.

3 ***SECTION 22 WAS NOT COMPLIED WITH***

4       224. Answering Paragraph 224 of the FAC, the referenced Deed of Trust is a written  
5 document, which speaks for itself, and it is the best evidence of what is contained therein.  
6 Defendants deny any description of the referenced document and its terms to the extent the  
7 description is inconsistent with the referenced document. Except as expressly admitted herein,  
8 Defendants lack sufficient information or knowledge to admit or deny the allegations contained  
9 therein and, on that basis, deny the allegations.  
10

11       225. Answering Paragraph 225 of the FAC, BANA denies each and every allegation  
12 contained therein. MERS is without sufficient information or knowledge to admit or deny the  
13 allegations contained in this paragraph, and on that basis, denies them.  
14

15       226. Answering Paragraph 226 of the FAC, the referenced Deed of Trust is a written  
16 document, which speaks for itself, and it is the best evidence of what is contained therein.  
17 Defendants deny any description of the referenced document and its terms to the extent the  
18 description is inconsistent with the referenced document. Except as expressly admitted herein,  
19 Defendants lack sufficient information or knowledge to admit or deny the allegations contained  
20 therein and, on that basis, deny the allegations.  
21

22       227. Answering Paragraph 227 of the FAC, BANA denies each and every allegation  
23 contained therein. MERS is without sufficient information or knowledge to admit or deny the  
24 allegations contained in this paragraph, and on that basis, denies them.  
25  
26  
27  
28



1 **SERVICING VIOLATIONS**

2 228. Answering Paragraph 228 of the FAC, BANA denies each and every allegation  
3 contained therein. MERS is without sufficient information or knowledge to admit or deny the  
4 allegations contained in this paragraph, and on that basis, denies them.

5 229. Answering Paragraph 229 of the FAC, Defendants respond that this paragraph  
6 contains a legal conclusion that does not require a response. To the extent this paragraph requires  
7 a response Defendants are without sufficient knowledge or information to admit or deny the  
8 allegations and on that basis deny each and every allegation of this paragraph.  
9

10 **BANA IS A DEBT COLLECTOR**

11 230. Answering Paragraph 230 of the FAC, Plaintiff's purported definition of "the  
12 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
13 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
14 them.  
15

16 **BANA IS NOT HOLDER IN DUE COURSE OF THE NOTE**

17 231. Answering Paragraph 231 of the FAC, Plaintiff's purported definition of "the  
18 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
19 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
20 them.  
21

22 232. Answering Paragraph 232 of the FAC, Plaintiff's purported definition of "the  
23 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
24 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
25 them.  
26  
27  
28





1           233. Answering Paragraphs 233 of the FAC, Plaintiff's purported definition of "the  
2 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
3 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
4 them.

5           234. Answering Paragraph 234 of the FAC, Plaintiff's purported definition of "the  
6 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
7 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
8 them.  
9

10           235. Answering Paragraph 235 of the FAC, Plaintiff's purported definition of "the  
11 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
12 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
13 them.  
14

15           236. Answering Paragraph 236 of the FAC, Plaintiff's purported definition of "the  
16 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
17 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
18 them.  
19

20           237. Answering Paragraph 237 of the FAC, Plaintiff's purported definition of "the  
21 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
22 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
23 them.  
24

25           238. Answering Paragraph 238 of the FAC, Plaintiff's purported definition of "the  
26 Note" is vague and unidentifiable and thus Defendants are without sufficient information or  
27  
28



1 knowledge to admit or deny the allegations contained in this paragraph, and on that basis, deny  
2 them.

3 **FIRST CAUSE OF ACTION**

4 **(Quiet Title)**

5 **(Against All Defendants)**

6 239-261. Answering Paragraph 239-261 of the FAC, Defendants respond that no  
7 response is required because the Court granted Defendants' Motion to Dismiss as to this cause of  
8 action. To the extent that a response is required, Defendants deny each and every allegation  
9 contained therein.

10 **SECOND CAUSE OF ACTION**

11 **(Fair Debt Collection Practices Act, FDCPA (15 U.S.C. § 1692-1692o))**

12 **(Against BANA, MTC FINANCIAL INC. D/B/A TRUSTEE CORPS)**

13 262-313. Answering Paragraph 262-313 of the FAC, Defendants respond that no  
14 response is required because the Court granted BANA's Motion to Dismiss as to this cause of  
15 action, and this cause of action was not alleged against MERS. To the extent that a response is  
16 required, Defendants deny each and every allegation contained therein.

17 **THIRD CAUSE OF ACTION**

18 **(Defamation)**

19 **(Against BANA; MTC; Does #1-10)**

20 314. No response is required to FAC ¶314, since it merely is a recitation incorporation  
21 by reference the allegations of the preceding paragraphs of Plaintiff's FAC; however, to the  
22 extent that a response is required, BANA incorporates by reference BANA's responses to the  
23 preceding paragraphs of this answer to Plaintiff's FAC.

24 315. Answering Paragraph 315 of the FAC, BANA denies each and every allegation  
25 contained therein.  
26  
27  
28



1           316. Answering Paragraph 316 of the FAC, BANA denies each and every allegation  
2 contained therein.

3           317. Answering Paragraph 317 of the FAC, BANA denies each and every allegation  
4 contained therein.

5           318. Paragraph 318 of the FAC, contains legal conclusions that do not require a  
6 response. To the extent his paragraph requires a response, BANA denies the allegations therein.  
7

8           319. Answering Paragraph 319 of the FAC, BANA denies each and every allegation  
9 contained therein.

10           320. Answering Paragraph 320 of the FAC, BANA denies each and every allegation  
11 contained therein.  
12

13                           **FOURTH CAUSE OF ACTION**  
14                           **(Declaratory Judgment (28 U.S.C. § 2201 et seq.))**  
15                           **(Against All Defendants)**

16           321-348. Answering Paragraph 321-348 of the FAC, Defendants respond that no  
17 response is required because the Court granted Defendants' Motion to Dismiss as to this cause of  
18 action. To the extent that a response is required, Defendants deny each and every allegation  
19 contained therein.

20                           **FIFTH CAUSE OF ACTION**  
21                           **(Cancellation of Instrument(s))**  
22                           **(Against All Defendants)**

23           349-357. Answering Paragraph 349-357 of the FAC, Defendants respond that no  
24 response is required because the Court granted Defendants' Motion to Dismiss as to this cause of  
25 action. To the extent that a response is required, Defendants deny each and every allegation  
26 contained therein.  
27  
28



**SIXTH CAUSE OF ACTION**  
**(Replevin)**  
**(Against All Defendants)**

358. No response is required to FAC ¶358, since it merely is a recitation incorporation by reference the allegations of the preceding paragraphs of Plaintiff's FAC; however, to the extent that a response is required, Defendants incorporate by reference Defendants' responses to the preceding paragraphs of this answer to Plaintiff's FAC.

359. Answering Paragraphs 359-366 of the FAC, Plaintiff's purported definition of "the Note" is vague and unidentifiable and thus Defendants are without sufficient information or knowledge to admit or deny the allegations contained in these paragraphs, and on that basis, deny them.

**SEVENTH CAUSE OF ACTION**  
**(Breach of the Implied Covenant of Good Faith and Fair Dealing)**  
**(Against All Defendants)**

367-376. Answering Paragraph 367-376 of the FAC, Defendants respond that no response is required because the Court granted Defendants' Motion to Dismiss as to this cause of action. To the extent that a response is required, Defendants deny each and every allegation contained therein.

**EIGHTH CAUSE OF ACTION**  
**(Washington's Deed of Trust Act)**  
**(Against MERS Defendants, Trustee Corps, BANA)**

377-381. Answering Paragraph 377-381 of the FAC, Defendants respond that no response is required because the Court granted Defendants' Motion to Dismiss as to this cause of action. To the extent that a response is required, Defendants deny each and every allegation contained therein.



**NINTH CAUSE OF ACTION**  
**(Washington's Consumer Protection Act)**  
**(Against MERS Defendants, Trustee Corps, BANA)**

382-402. Answering Paragraph 382-402 of the FAC, Defendants respond that no response is required because the Court granted Defendants' Motion to Dismiss as to this cause of action. To the extent that a response is required, Defendants deny each and every allegation contained therein.

**PRAYER FOR RELIEF**

In response to the relief requested in the Prayer, Defendants deny that Plaintiff is entitled to any of the requested relief for the reasons set forth in this answer and based upon the Court's granting of Defendants' Motion to Dismiss as to the first, second, fourth, fifth, seventh, eighth, and ninth causes of action.

**AFFIRMATIVE DEFENSES**

Having answered the allegations in the FAC, Defendants set forth the following affirmative defenses. By setting forth these affirmative defenses, Defendants do not assume any burden of proof as to any fact issue or other element of any cause of action that properly belongs to Plaintiff. Further, Defendants reserve the right to amend or supplement the affirmative defenses as discovery or further investigation may justify.

1. Plaintiff fails to state a claim upon which relief may be granted.
2. Plaintiff's demand for damages is barred, in whole or in part, because of Plaintiff's failure to act reasonably to mitigate the alleged damages.
3. The FAC, and each and every cause of action alleged therein, is barred by the doctrine of unclean hands.



1           4.       The FAC, and each and every purported cause of action alleged therein, is barred  
2 by the doctrine of estoppel due to Plaintiff's own acts or omissions.

3           5.       The FAC, and each and every purported cause of action alleged therein, is barred  
4 by the doctrine of waiver.

5           6.       Plaintiff had actual, implied, and/or constructive knowledge of all acts and/or  
6 omissions alleged in the FAC and, while conscious of those acts and/or omissions, Plaintiff gave  
7 express or implied consent to all such alleged acts and/or omissions.

8           7.       The FAC, and each and every purported cause of action alleged therein, is barred  
9 by Plaintiff's ratification of the actions allegedly undertaken.

10          8.       Plaintiff unreasonably delayed in providing notice and in commencing and  
11 prosecuting this action which caused unfair prejudice to FAC, barring any recovery against  
12 Defendants under the equitable doctrine of laches.

13          9.       Plaintiff is not entitled to any recovery from FAC due to Plaintiff's failure to  
14 comply with the conditions, covenants and promises that he was required to perform under the  
15 alleged agreement.

16          10.      The statement(s) that Plaintiff claims were defamatory were substantially true.

17          11.      Plaintiff failed to commence this action within the time required by the applicable  
18 statute of limitations.

19          12.      Without admitting any of the allegations in the FAC, Defendants allege that the  
20 injuries and/or damages alleged by Plaintiff were proximately caused by, occurred, and/or were  
21 contributed to by Plaintiff's own acts or failures to act.



14. To the extent not set forth herein, Defendants reserve the right to assert additional defenses that become available or apparent during discovery and to amend their Answer accordingly.

WHEREFORE, Defendants request that the Court enter an Order as follows:

1. The Plaintiff takes nothing by the FAC;
2. For judgment in Defendants' favor;
3. For an award of costs incurred herein to FAC to the fullest extent allowed by contract or law;
4. For an award of reasonable attorneys' fees to the maximum extent allowed by law or contract to Defendants; and
5. For such other and further relief as the Court deems just and proper.

Respectfully submitted this 7th day of February, 2019.

WITHERSPOON • KELLEY

*s/Daniel J. Gibbons*

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*Attorneys for Defendants Bank of America, N.A.,  
Mortgage Electronic Registration Systems, Inc.; and  
Merscorp Holdings, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 7th day of February, 2019,

1. I caused to be electronically filed the foregoing DEFENDANTS' BANK OF AMERICA, N.A. AND MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.'S ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

**Jeremy Wolfson:** [jerwolfson@gmail.com](mailto:jerwolfson@gmail.com)  
**Michael S. DeLeo:** [mdeleo@prklaw.com](mailto:mdeleo@prklaw.com)  
**Fred B. Burnside:** [fredburnside@dwt.com](mailto:fredburnside@dwt.com)  
**Frederick A Haist:** [frederickhaist@dwt.com](mailto:frederickhaist@dwt.com)

2. I hereby certify that I have mailed by United States Postal Service the foregoing document to the following non-CM/ECF participants at the address listed: **None.**

3. I hereby certify that I have mailed by United States Postal Service the document to the following CM/ECF participants at the address listed below: **None.**

4. I hereby certify that I have hand-delivered the document to the following participants at the addresses listed below: **None.**

/s/Daniel J. Gibbons

Daniel J. Gibbons, WSBA # 33036

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*Merscorp Holdings, Inc.*

